

# **POLAND 2019 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Poland is a republic with a multiparty democracy. The bicameral parliament consists of an upper house (Senate) and a lower house (Sejm). The president and the Council of Ministers headed by the prime minister share executive power. In the parliamentary elections held on October 13, the ruling Law and Justice (PiS) party retained its majority in the Sejm but lost its majority in the Senate. The Organization for Security and Cooperation in Europe (OSCE) conducted elections observation. Finding there was overall confidence in the election administration, it admitted polls occurred amid “deep political polarization” and stated that “media bias and intolerant rhetoric in the campaign were of significant concern.”

The police force is a national law enforcement body with regional and municipal units overseen by the Ministry of Interior and Administration. The Border Guard is responsible for border security and combating irregular migration; it reports to the Ministry of Interior and Administration. The Internal Security Agency (ABW) has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (CBA) is responsible for combating government, business, and financial corruption and may investigate any matter involving public funds. The prime minister appoints and supervises the head and deputy heads of the CBA and ABW, which also report to parliament. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: criminal defamation penalties; violence or threats of violence targeting lesbian, gay, bisexual, transgender, or intersex (LGBTI) persons; and crimes involving violence or threats of violence targeting members of ethnic minorities.

The government took steps to investigate, prosecute, and punish officials who committed human rights abuses. There were no reports of security force impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices. There were reports of problems, however, with police misconduct and corrections officers' abuse of prisoners. The law lacks a clear legal definition of torture, but all actions that could be considered "torture" are prohibited under other provisions of law and prosecuted consistent with the country's obligations under international treaties and conventions prohibiting torture. The law outlines disciplinary actions for police, including reprimand, demotion in rank, and dismissal. Civil society groups noted cases of police misconduct against persons in custody.

On June 21, the Wroclaw District Court found four former police officers guilty of abuse of power and physical and psychological violence against a 25-year-old man who died in police custody in Wroclaw in 2016. One defendant was sentenced to two and a half years in prison, and the others received two-year sentences. Video footage showed police beating and using an electroshock device on the man while he was handcuffed in a jail cell.

In February the Lublin district prosecutor's office pressed charges against two police officers for the August 2018 beating of a 70-year-old man in their custody in the town of Ryki in regarding suspicions he had vandalized the grave of a police officer. If convicted, they may face up to five years' imprisonment. Both men were expelled from the police force, and their supervisor was demoted and transferred to a different unit.

On August 5, the UN Committee against Torture published its concluding observations in the *Seventh Periodic Review of Poland*. The report noted the lack of definition of torture in the criminal code and urged the government to take effective legislative measures to include torture as a separate crime, to adopt a definition of torture, and to ensure the penalties for torture are commensurate with the gravity of the crime.

## **Prison and Detention Center Conditions**

Prison and detention center conditions were adequate. There were no significant reports regarding prison or detention center conditions that raised human rights concerns. Nonetheless, insufficient prison medical staff and limited prisoner access to specialized medical treatment continued to be problems.

Physical Conditions: While authorities generally separated juveniles from adults, the law allows shared housing in prisons and detention centers in exceptional cases. Juveniles were at times held together with adult prisoners. Authorities usually sent juveniles between the ages of 17 and 21 accused of serious crimes to pretrial detention.

The law permits authorities to commit prisoners to the National Center for the Prevention of Dissocial Behaviors when they have served their prison sentences and have undergone a custodial therapy program, and continue to have mental disabilities believed to create a high probability they would commit another serious crime against a person.

Administration: Authorities investigated credible allegations of inhuman conditions and made their findings publicly accessible. The country's commissioner for human rights (ombudsperson) may join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when they file a complaint or when information obtained otherwise leads to an allegation of inhuman conditions. The ombudsperson administers the national preventive mechanism, an independent program responsible for monitoring conditions and treatment of detainees in prisons and detention facilities.

Independent Monitoring: The government allows on a regular basis independent monitoring of prison conditions and detention centers by local human rights groups as well as by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment. The Helsinki Human Rights Foundation and other local nongovernmental organizations (NGOs) made occasional visits to prisons.

Improvements: The government continued implementation of a two billion-zloty (\$508 million), four-year (2017-20) prison administration modernization plan to improve the security of detention facilities, prison infrastructure, and working conditions for prison guards.

#### **d. Arbitrary Arrest or Detention**

The constitution and the law prohibit arbitrary arrest and detention and provide for the right of any person to challenge in court the lawfulness of his or her arrest or detention, and the government generally observed these requirements.

#### **Arrest Procedures and Treatment of Detainees**

The constitution and the law require authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law. The constitution and the law allow detention of a person for 48 hours before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. The law allows authorities to hold terrorism suspects without charges for up to 14 days. The law sets a five-day limit for holding a juvenile in a police establishment for children if the juvenile escaped from a shelter or an educational or correctional facility. It allows police to hold for up to 24 hours in a police establishment for children a juvenile who is being transferred to a shelter or an educational or correctional facility, in the case of a “justified interruption of convoy.” The law provides that police should immediately notify a detained person of the reasons for his or her detention and of his or her rights. Usually this information is initially delivered orally; later, at the police station, the detainee signs a statement that he or she has been advised of his or her rights and duties. Police give the detained person a copy of the report on his or her detention. Authorities generally respected these rights. Only a court may order pretrial detention.

There is a functioning bail system, and authorities released most detainees on bail. Defendants and detainees have the right to consult an attorney at any time. The government provided free counsel to indigent defendants.

#### **e. Denial of Fair Public Trial**

While the constitution provides for an independent judiciary, the government continued to implement measures related to the judiciary that drew strong criticism from some legal experts, NGOs, and international organizations. The government argued these measures were necessary to improve efficiency in the judicial system.

On November 19, the European Court of Justice (ECJ) issued a ruling related to an August 2018 referral from Polish courts regarding the independence of the Supreme Court Disciplinary Chamber. The ECJ referred the issue back to

Poland's Supreme Court for a final decision. On December 5, the Supreme Court's Labor and Social Security Chamber ruled that the Supreme Court Disciplinary Chamber cannot be considered independent and therefore should not be recognized as a court under EU law. It also found that the National Judicial Council responsible for nominating and promoting judges "is not an impartial and independent body."

On April 3, the European Commission launched an infringement procedure against the country on the grounds that its disciplinary regime for judges "undermines the judicial independence of Polish judges and does not ensure the necessary guarantees to protect judges from political control, as required by the Court of Justice of the EU." The commission stated the disciplinary regime does not provide for the independence and impartiality of the Disciplinary Chamber of the Supreme Court, which is composed solely of judges selected by the reformed National Council of the Judiciary, "which is itself politically appointed by the Polish Parliament (Sejm)."

On June 24, the ECJ ruled against Poland's 2018 law to lower the retirement age of Supreme Court justices from 70 to 65, which would have forced the retirement of 27 of the 74 Supreme Court justices. The ECJ stated the law "breaches the principles of judicial independence and the irremovability of judges." Before the ECJ's final decision, on January 1, the government fulfilled the ECJ's interim measures by revising the law and reappointing all retired justices.

According to Justice Ministry statistics, the average trial lasted 5.4 months in 2018, compared with 5.5 months in 2017 and 4.7 months in 2016. The EU Justice System Scoreboard reported the courts had become less efficient. In 2010 the court of first instance took an average of 49 days to issue a ruling. In 2017 the average increased to 73 days. Some legal experts cited these statistics as evidence that the government's judicial changes did not lead to greater judicial efficiency.

## **Trial Procedures**

The constitution provides for the right to a fair public trial, and the judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to prompt and detailed notification of the charges against them, with free interpretation for defendants who do not speak Polish from the moment charged through all appeals. They have the right to a fair and public trial without undue delay and the right to be present at their trial. Trials are usually public, although the courts reserve the right to close a trial in some circumstances, including divorce

proceedings, cases involving state secrets, and cases whose content may offend public morality.

Defendants have the right to legal representation, and indigent defendants may consult an attorney provided without cost. The government must provide defendants and their attorneys adequate time and facilities to prepare a defense. Defendants may confront and question witnesses and present witnesses and evidence on their own behalf. Prosecutors may grant witnesses anonymity if they express fear of retribution from defendants. The prosecutor general may release to media information concerning any investigation, except if such information is classified, with due consideration to important public interests. Defendants may not be compelled to testify or confess guilt.

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must provide a response within 14 days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals or organizations may seek civil remedies for human rights violations. The government's implementation of court orders, particularly for payment of damages, remained slow, and cumbersome.

After they exhaust remedies available in the domestic courts, persons have the right to appeal court decisions involving alleged government violations of the European Convention on Human Rights to the European Court for Human Rights.

The dispute regarding judicial appointments to the Constitutional Court in 2015 and 2016 remained unresolved.

### **Property Restitution**

The law provides for restitution of communal property, such as synagogues and cemeteries, seized under Nazi occupation or during the Communist era, but the

process proceeded slowly. The property commissions had resolved 7,151 of slightly more than 10,500 communal property claims by religious groups.

The government has put in place legal and administrative procedures for private property restitution, but NGOs and advocacy groups reported it did not make significant progress on resolution of Holocaust-era claims, including for foreign citizens. No comprehensive law addresses the return of, or compensation for, private property, but individuals may seek the return of confiscated private property through administrative proceedings and the courts. NGOs and advocacy groups described the process as cumbersome and ineffective.

Various political parties publicly denounced calls for broad, expedited private property restitution to compensate the original owners of properties they were unlawfully deprived of during the World War II and communist eras. On May 17, Prime Minister Mateusz Morawiecki stated at a party convention ahead of European Parliament (EP) elections that the country should not be encumbered with financial obligations in providing restitution payments. On June 4, PiS chairman and leader Jaroslaw Kaczynski stated that “PiS is a guarantee that Poland will not pay for German crimes committed during World War II. If Jews have any claims, let them turn to Germany. Poles do not owe them anything.” On September 26, Prime Minister Morawiecki stated in response to a question regarding Holocaust-era property restitution that “demanding any compensation from Poland is not only inappropriate but is also an insult to basic historical truth.” On May 15, Robert Winnicki, a member of the Sejm and the far-right Confederation party, said in the Sejm that PiS “want[s] to sell Poland to the Jews,” after the Sejm declined to review a bill that would ban heirless property restitution. On May 15, Stanislaw Tyszka of the Kukiz’15 party, then a deputy speaker of the Sejm, stated PiS’s refusal to take up the legislation “shows that the Polish government is no longer on its knees, but is lying flat in front of the [United States] and Israel.”

Warsaw city authorities continued publishing lists of properties covered by a 2016 law intended to end abusive practices in the trading of former property owners’ claims. NGOs and advocacy groups expressed serious concerns that the law fell short of providing just compensation to former owners who lost property as a result of nationalization of properties by the communist-era government, and also properties taken during the Holocaust era. Legal experts expressed concern that the law limited the ability of petitioners to reclaim property unjustly taken from their lawful owners. The World Jewish Restitution Organization asserted that the time limits included in the law were insufficient for potential claimants,

particularly Holocaust survivors and their heirs, to meet difficult documentary requirements.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions but allows electronic surveillance with judicial review for crime prevention and investigation. There were no reports that the government failed to respect those prohibitions.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights.

Freedom of Expression: The law prohibits hate speech, including the dissemination of anti-Semitic literature and the public promotion of fascist, communist, or other totalitarian systems, and intentional offense of religious feelings.

Violence and Harassment: On February 14, the Katowice regional prosecutor's office discontinued its investigation into Piotr Wacowski, a cameraman for private television news channel TVN, who was suspected of propagating fascism. The case was related to an investigative report by the journalist showing members of the Pride and Modernity Association dressed in Nazi uniforms and celebrating Hitler's birthday in 2017. The prosecutor's office stated it could find no evidence Wacowski had committed a crime.

Censorship or Content Restrictions: The constitution prohibits censorship of the press or social communication. Nevertheless, laws regulating broadcasting and media prohibit, under penalty of fines, license revocation, or other authorized sanctions, the promotion of activities endangering health or safety, or the promotion of views contrary to law, morality, or the common good. The law also requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values."

Critics alleged persistent progovernment bias in state television news broadcasts.

Libel/Slander Laws: Defamation by print and broadcast journalists is a criminal offense and includes publicly insulting or slandering the president, members of parliament, government ministers and other public officials, the Polish nation, foreign heads of state and ambassadors, private entities and persons, as well as insult or destruction of the national emblem, the flag, and other state symbols. Defamation outside the media is punishable by a fine and community service. The courts rarely applied maximum penalties, and persons convicted of defamation generally faced only fines or imprisonment of less than one year. The maximum sentence for insulting the president is three years' imprisonment.

The Helsinki Foundation for Human Rights and the Association of Polish Journalists reported that journalists convicted of defamation had never received the maximum penalty. According to the association, however, the criminal defamation law may have a chilling effect on journalists, especially in local media, since local authorities may use the law against journalists. Media owners, particularly of small local independent newspapers, were aware that potentially large fines could threaten the financial survival of their publications. According to Ministry of Justice statistics for 2018, the most recent data available, courts convicted one person of insulting the president and three persons for insulting constitutional organs of the government. In 2018 the courts fined two persons for public defamation through media using the public prosecution procedure, when a private person presses criminal charges against another person. In 2018 there were 116 convictions for criminal defamation through media using the private prosecution procedure.

On November 26, the Katowice District Prosecutor's Office discontinued its prosecutorial investigation into a historian, stemming from a 2015 newspaper interview where the historian alleged that Poles killed more Jews than Nazis in occupied Poland during World War II. The Katowice District Prosecutor's Office stated it was not its role to settle issues of an historical nature.

On February 12, the Lodz District Court fined investigative reporter Wojciech Biedron 3,000 zloty (\$762) on charges of public insult of a judge for inaccurately reporting that a court had initiated disciplinary proceedings against the judge. Several journalists criticized the judgment as overly harsh and disproportionate to the offense.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications or email without appropriate legal authority. The 2016 antiterrorism law authorizes the ABW to block websites without a prior court order in cases relating to combating, preventing, and prosecuting terrorist crimes; shut down telecommunications networks when there is a terrorist threat; and conduct surveillance of foreign nationals for up to three months without a court order. During the year there were no reports by media or NGO sources that the ABW blocked websites.

The law against defamation applies to the internet as well.

### **Academic Freedom and Cultural Events**

There were no reports of government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. The 2015 antiterrorism law permits restrictions on public assemblies in situations of elevated terrorist threats. During the year there were no cases of the prohibition of a public assembly due to an elevated terrorist threat.

In December the Warsaw District Prosecutor's Office decided to discontinue its investigation into an attack on counterdemonstrators during the November 2017 Independence March. The office stated that continuing the case was not in the public interest and that it was unable to identify the perpetrators of the attack. On February 13, the Warsaw Regional Court struck down an earlier decision by the Warsaw District Prosecutor's Office to discontinue the investigation and ordered the office to reopen the case. The Prosecutor's Office had previously asserted the attackers' intention was to show dissatisfaction and not to physically harm the 14 counterdemonstrators they confronted.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

#### **d. Freedom of Movement**

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. In addition to guarded centers for foreigners, the government operated 11 open centers for asylum seekers with an aggregate capacity of approximately 2,000 persons in the Warsaw, Bialystok, and Lublin areas.

Abuse of Migrants, Refugees, and Stateless Persons: Some incidents of gender-based violence in the centers for asylum seekers occurred, but UNHCR reported that local response teams involving doctors, psychologists, police, and social workers addressed these cases. UNHCR reported no major or persistent problems with abuse in the centers.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

On April 17, the Helsinki Foundation for Human Rights, a Warsaw-based NGO, published a report criticizing the government for restricting access to the asylum procedure. The report covered the situation on the country's eastern border between 2015 and 2019 and stated the Border Guard at times arbitrarily refused the right to submit an application for international protection at border crossing stations.

Safe Country of Origin/Transit: The EU's Dublin III Regulation, to which the country is subject, recognizes all EU countries as safe countries of origin and transit. The regulation also authorizes the governments of EU member states to return asylum seekers to the countries where they first entered the EU. The law

permits denial of refugee status based on safe country of origin or safe country of transit but includes provisions that allow authorities to consider the protection needs of individuals in exceptional cases.

Freedom of Movement: Authorities placed some asylum seekers in guarded centers for foreigners while they awaited deportation or decisions on their asylum applications. Border guards may place an individual in a guarded center only by court order. The law prohibits the placement of unaccompanied minors younger than 15 in guarded centers. Border guards typically sought to confine foreigners who attempted to cross the border illegally, lacked identity documents, or committed a crime during their stay in the country.

Employment: Asylum seekers are not allowed to work during the first six months of the asylum procedure. If the asylum procedure lasts longer than six months, they may work until the asylum decision is final.

Access to Basic Services: Asylum seekers faced language and cultural barriers and had limited access to higher education. Children in centers for asylum seekers had free access to public education, but those placed with relatives in guarded centers for foreigners did not.

Temporary Protection: The government also provided temporary protection to individuals who may not qualify as refugees.

### **g. Stateless Persons**

According to a UNHCR report released in September, the government's Office for Foreigners officially registered 1,376 stateless persons during the year. UNHCR reported that because the government did not implement a formal procedure of identifying stateless persons, it was possible many stateless persons did not encounter authorities and were unreported in official statistics.

The law affords the opportunity to obtain nationality. The UNHCR report noted, however, that the government's lack of a formal procedure of identifying stateless persons led to protection gaps and exposed stateless persons to many negative consequences, including detention.

The UNHCR report noted several problems resulting from stateless status, including the inability to undertake legal employment or to access social welfare and health care. Stateless persons often lack identity documents, which limits their

ability to perform many legal actions, such as opening a bank account or entering into a marriage. According to UNHCR, such problems made this group particularly vulnerable to poverty and marginalization.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: The OSCE conducted an election observation mission and concluded in its preliminary findings that the October 13 parliamentary elections were well prepared and there was overall confidence in the election administration, but media bias--particularly in the public media--and intolerant rhetoric in the campaign, including instances of nationalist and homophobic rhetoric, were of significant concern. The dominance of the ruling Law and Justice Party in public media amplified its advantage.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

### **Section 4. Corruption and Lack of Transparency in Government**

Corruption: The law provides criminal penalties for corruption by officials, and criminal prosecutions for official corruption occurred. There were reports of corruption that resulted in legal action.

On January 11, the Przemysl Regional Court sentenced former head of Podkarpackie Province Mirosław Karapyta to four years in prison for rape and corruption. The court found him guilty of nine charges, including two cases of attempted rape, accepting a personal favor in the form of sexual intercourse, and accepting expensive gifts in return for favors. Karapyta pleaded not guilty and appealed the court's ruling.

On January 28, the CBA charged the former defense ministry's spokesperson and a former member of the parliament with exceeding their authority and improperly managing military contracts in order to obtain financial benefits worth more than 90,000 zloty (\$22,900).

On March 18, a regional court in Tarnow found the former Rzeszow appellate prosecutor guilty of accepting bribes and abuse of power and sentenced her to a six-year prison term. The verdict was subject to appeal.

Financial Disclosure: Various laws oblige elected and appointed public officials to submit financial statements concerning their financial assets, real property, stocks, and bonds. According to the NGO Stefan Batory Foundation, the CBA was able to screen less than 1 percent of all financial disclosure statements filed by politicians and senior officials. With the exception of certain situations provided for by law, the regulations protect information included in financial statements as “restricted access” information that may be made public only with the written permission of the provider.

After completing an audit of Supreme Audit Board head Marian Banas’ required financial declarations, on November 29, the CBA notified the Prosecutor’s Office of potential crimes committed by Banas related to false property declarations, concealing a property’s actual status, and undocumented sources of income. On December 3, the regional prosecutor’s office in Bialystok opened an investigation. The prime minister and other leaders of the ruling Law and Justice Party called on Banas to resign but, at year’s end, he had not resigned. Banas denied the allegations and sued the media outlet that uncovered the reported improprieties for defamation.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

Government Human Rights Bodies: The law entrusts the ombudsperson and the government plenipotentiary for civil society and equal treatment with the task of “implementing the principle of equal treatment.”

In cooperation with NGOs, the ombudsperson processes complaints, conducts investigations, institutes and participates in court proceedings, undertakes studies, provides other public bodies with advice, proposes legislative initiatives, and conducts public information campaigns. The ombudsperson has no authority to mediate disputes between private entities, even in cases of racial discrimination.

The ombudsperson presents an annual report to the Sejm on the state of human rights and civic freedom in the country.

The government plenipotentiary for civil society and equal treatment has a mandate to counter discrimination and promote equal opportunity for all. The plenipotentiary implements the government's equal treatment policy, develops and evaluates draft acts, analyzes and evaluates legal solutions, and monitors the situation within the scope of application of the principle of equal treatment. The plenipotentiary is subordinate to the Prime Minister's Office, did not have the same institutional independence as the ombudsperson, and did not have a separate budget.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and consist of representatives from multiple political parties.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by up to 12 years in prison.

While courts may sentence a person convicted of domestic violence to a maximum of five years in prison, most of those found guilty received suspended sentences. The law permits authorities to place restraining orders without prior approval from a court on spouses to protect against abuse.

The Women's Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents if the perpetrator was a police officer or if victims were unwilling to cooperate.

The law requires every municipality in the country to set up an interagency team of experts to deal with domestic violence.

Centers for victims of domestic violence operated throughout the country. The centers provided social, medical, psychological, and legal assistance to victims; training for personnel who worked with victims; and "corrective education" programs for abusers.

Sexual Harassment: The law prohibits sexual harassment, and violations carry penalties of up to three years' imprisonment. According to the Women's Rights Center, sexual harassment continued to be a serious and underreported problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The constitution provides for the same legal status and rights for men and women and prohibits discrimination against women, although few laws exist to implement the provision. The constitution requires equal pay for equal work, but discrimination against women in employment existed (see section 7.d.).

## **Children**

Birth Registration: A child acquires citizenship at birth if at least one parent is a citizen, regardless of where the birth took place. Children born or found in the country whose parents were unknown or stateless are also citizens. The government has a system of universal birth registration immediately after birth.

Child Abuse: A government ombudsperson for children's rights issued periodic reports on problems affecting children, such as the need for improved medical care for children with chronic diseases. The ombudsperson's office also operated a 24-hour free hotline for abused children. The government continued its public awareness campaigns, aimed at preventing physical violence or sexual abuse against children.

Early and Forced Marriage: The legal minimum age of marriage is 18, although courts may grant permission for girls as young as 16 to marry under certain circumstances.

Sexual Exploitation of Children: The law prohibits sexual intercourse with children younger than 15. The penalty for statutory rape ranges from two to 12 years' imprisonment.

Child pornography is illegal. The production, possession, storage, or importation of child pornography involving children younger than 15 is punishable by three months' to 10 years' imprisonment. During the year police conducted several operations against child pornography and alleged pedophiles.

According to the government and the Children Empowerment Foundation, a leading NGO dealing with trafficking in children, trafficking of children for sexual exploitation remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Union of Jewish Communities estimated the Jewish population at 20,000. Anti-Semitic incidents continued to occur, often involving desecration of significant property, including Jewish cemeteries and the wall of the former Jewish ghetto in Krakow, and sometimes involving anti-Semitic comments on radio and social media. Jewish organizations expressed concern regarding their physical safety and security.

On April 19, residents of the town of Pruchnik enacted an anti-Semitic ritual that involved hanging, burning, and beating an effigy of Judas, who was dressed to look like an Orthodox Jew. On April 22, the Roman Catholic Church condemned the ritual, and the then minister of the interior and administration called the ritual "idiotic, pseudoreligious chutzpah." On May 14, the local prosecutor's office stated it would not open an investigation into the incident, describing it as a hundred-year-old local tradition, rather than an incitement of hatred against Jews.

On May 4, the Oswiecim Regional Court sentenced Piotr Rybak to one year of community service for incitement to hatred on nationality grounds. On January 27, Rybak led a protest of approximately 200 far-right nationalists at the Auschwitz-Birkenau Nazi concentration and extermination camp. During the demonstration, Rybak claimed the International Holocaust Remembrance Day glorified Jewish victims and disregarded the deaths of non-Jewish Poles, saying, "It's time to fight against Jews and free Poland from them!"

On July 1, the Wodzislaw Slaski Regional Court began a trial for six persons accused of publicly promoting Nazism in 2017 by organizing a celebration of Hitler's birthday in a forest, donning Wehrmacht uniforms and burning a swastika. The incident was secretly filmed and later broadcast by undercover television journalists. The main organizer of the event, a member of the neo-Nazi Pride and

Modernity association, pleaded not guilty, claiming the event was private. On August 7, in a separate case, the Gliwice Regional Court decided to dissolve Pride and Modernity, stating that the event was tantamount to approval or even affirmation of Hitler and Nazism. The ruling was not final.

On July 21, unknown perpetrators defaced a recently renovated wall around the Jewish cemetery in the city of Tarnow with an anti-Semitic inscription. Tarnow mayor Roman Ciepiela immediately condemned the incident and declared the city would pay for the removal of the inscription.

In September media reported anti-Semitic posters were hung at Warsaw bus stops with the slogans “Beware of parasites,” “Stop the [restitution] claim mafia,” and “Stop Jewish occupation.” On September 26, the Warsaw mayor’s office referred the case to the Warsaw prosecutor’s office.

### **Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. While the government effectively enforced these provisions, there were reports of some societal discrimination against persons with disabilities. The government restricted the right of persons with certain mental disabilities to vote or participate in civic affairs.

The law states that buildings should be accessible for persons with disabilities, but many buildings remained inaccessible. Public buildings and transportation generally were accessible, although older trains and vehicles were often less so, and many train stations were not fully accessible. On July 19, the parliament adopted an accessibility law that entered into force on September 19. The law introduced new obligations for public institutions regarding building, digital, and information access for persons with special needs.

### **National/Racial/Ethnic Minorities**

A number of xenophobic and racist incidents occurred during the year. On February 2, police detained a 31-year-old man accused of a January 31 racist attack

against two individuals in Krakow's city center. The man argued with his victims using racist language and threatened them with a knife. He was charged with making threats and racist insults and extreme disrespect for public order.

On February 19, the Wroclaw District Court sentenced a 39-year-old man to 10 months of community service and fined him 500 zloty (\$127) for spitting on a Cuban woman in Wroclaw in July 2018. Prosecutors charged him with violating bodily integrity and making racially motivated public insults.

On May 29, police charged two men with insulting two Indian citizens on February 4. The incident took place on a public bus, when the two men verbally attacked the victims and hit one of them. On June 19, police detained a third man involved in the attack.

On July 7, an unknown man physically and verbally attacked an Indian student of Gdansk Technical University who was riding on a train in the Gdansk area. The man approached the student, hit him in the face, and shouted offensive remarks at him. Police have not found the perpetrator.

On August 9, the Rzeszow local prosecutor's office pressed charges against a 34-year-old man for attacking a 22-year-old Polish Muslim woman and her three-month-old baby in Rzeszow. The man was charged with making threats and offending the woman on the grounds of religious affiliation. On August 2, the attack took place as the woman was pushing her baby in a stroller along the river. The man verbally abused her and tried to throw the stroller with her baby into the river. He also made death threats against the woman and shouted, "heil Hitler" and "white power."

On November 11, the annual Independence Day March in Warsaw was again organized by a coalition of groups, including the National Radical Camp (ONR) and All Polish Youth, widely deemed extremist and nationalist in their ideologies. March organizer Robert Bakiewicz said in a speech preceding the march that "Jews want to plunder our homeland," referring to calls for broad, expedited private property restitution. While there were no reports of violence, participants chanted slogans such as "Great Catholic Poland" and "This is Poland, not Israel." A small number of participants displayed a white supremacist version of the Celtic cross.

On November 11, Wroclaw city officials shut down a far-right supported Independence March after participants ignored multiple warnings from police to

stop anti-Semitic chants and burning flares. Some participants refused to disperse and threw flares, bottles, and rocks at police, who responded by using water cannons and tear gas in an attempt to control the crowd. A spokesperson for the Wroclaw police said three police officers and two bystanders were injured, and 14 persons were detained.

On November 10, the ABW arrested two persons in Warsaw and Szczecin and accused them of planning to carry out attacks, using firearms and explosives, against Muslims living in the country. The ABW stated the suspects were planning their attacks using the 2011 Norway terrorist attacks and the 2019 New Zealand terrorist attack as models.

Societal discrimination against Roma continued to be a problem. The 2011 national census recorded 16,723 Roma, although an official government report on the Romani community estimated that 20,000 to 25,000 Roma resided in the country. Romani community representatives estimated that 30,000 to 35,000 Roma resided in the country.

Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, media, and education.

During the year the government allocated 11.1 million zloty (\$2.82 million) for programs to support Roma communities, including for educational programs. The Ministry of Education helped finance school supplies for Romani children. The Ministry of Interior and Administration provided school grants for Romani high school and university students, postgraduate studies on Romani culture and history in Krakow, and Romani-related cultural and religious events.

The Ukrainian and Belarusian minorities continued to experience harassment and discrimination. On March 6, media reported that passengers in an Uber vehicle in Warsaw physically and verbally attacked their Ukrainian driver while using vulgar language to refer to his nationality after he refused their request to play music on his radio.

On July 12, unknown perpetrators threw a bottle with unidentified liquid into an apartment rented by three Ukrainian men in Warsaw. Anti-Ukrainian slogans were also placed on walls next to the apartment.

On November 25, prosecutors launched an investigation regarding the insult of a person on grounds of national origin after a woman in Bialystok uploaded a

YouTube video in which she verbally attacked a Ukrainian woman on a train, claiming that she was taking up too much space.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

While the constitution does not prohibit discrimination on the specific grounds of sexual orientation, it prohibits discrimination “for any reason whatsoever.” The laws on discrimination in employment cover sexual orientation and gender identity but hate crime and incitement laws do not. The government plenipotentiary for civil society and equal treatment is charged with monitoring discrimination against LGBTI individuals and groups. LGBTI advocacy groups, however, criticized the plenipotentiary office for a lack of interest and engagement in LGBTI issues. The ombudsperson also continued to work on LGBTI human rights cases.

On October 8, the ombudsman issued a statement in which he expressed concern regarding growing discrimination, hatred, and verbal and physical aggression against LGBTI persons.

Several pride marches were met with violent protests. On April 13, approximately 400 participants attended the country’s first march of the year in Gniezno, where around 500 counterdemonstrators threw bottles, eggs, and other objects at police and shouted homophobic slogans.

On July 20, there were violent protests against an equality march in the town of Bialystok where participants were attacked by counterdemonstrators who tried to block the march. The counterprotesters verbally abused the participants and threw various objects at them. Minister of Interior and Administration Elzbieta Witek criticized “hooligan behavior that infringes the rights of others” and “hinders the duties of police,” whose job it is to “ensure security regardless of the slogans or beliefs proclaimed by citizens.” On July 23, Prime Minister Morawiecki sharply condemned violence against marchers at the event.

On July 25, Przemyslaw Witkowski, a journalist working for a left-wing periodical, was beaten in Wroclaw after he openly criticized anti-LGBTI graffiti he saw on a wall near one of the city’s bridges. On July 30, police apprehended the perpetrator and charged him with causing damage to health and making threats connected to political affiliation. On November 18, the man was convicted and sentenced to one year in prison and a 5,000 zloty (\$1,290) fine. The verdict was subject to appeal.

On September 28, police used water cannons and tear gas to control counterdemonstrations during Lublin's second annual equality march. Police detained 38 persons who attempted to disrupt the march, including a married couple who brought explosive materials to the march. The man and woman were charged with illegal production and possession of explosive devices and could face up to eight years in prison, if convicted.

Politicians from multiple political parties made statements attacking LGBTI "ideology." For example, in August PiS party chairman Jaroslaw Kaczynski said the country must defend itself from "the people in our country who want to encroach on our families, our schools, our lives...to take away our culture and freedom...to undermine what is normal."

During the year more than 30 local governments around the country adopted anti-LGBTI declarations, nonbinding documents that mainly focused on preventing "LGBTI ideology in schools." LGBTI NGOs pointed out that those resolutions may have a chilling effect on institutions subordinate to local governments and may increase the number of hate crimes. On December 10, the ombudsman filed five suits with provincial administrative courts against some of the local governments that had adopted anti-LGBTI declarations, arguing the declarations discriminated against LGBTI persons and violated their human rights.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the rights of workers to form and join independent trade unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination and provides legal measures under which workers fired for union activity may demand reinstatement. Individuals who are self-employed or in an employment relationship based on a civil law contract are permitted to form a union.

Government workers, including police officers, border guards, prison guards, and employees of the supreme audit office, are limited to a single union. Workers in services deemed essential, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades, do not have the right to strike. These workers have the rights to protest and to seek resolution of their grievances through mediation and the court system.

Trade unions are registered when at least 10 eligible persons adopt a resolution to form a trade union. Newly established trade unions must appoint a founding committee consisting of three to seven persons. A new trade union must register with the National Court Registry within 30 days of the resolution. The court may remove a trade union from the registry only if a trade union adopts a resolution to dissolve; is no longer able to operate due to the bankruptcy, liquidation, or reorganization of the company in which the trade union operated; or if a trade union has fewer than 10 members for more than three months.

Legal strike ballots require the support of the majority of union voters. To allow for required mediation, a strike may not be called fewer than 14 days after workers present their demands to an employer. The law obligates employers to report workplace group disputes to district inspection office in their regions.

Cumbersome procedures made it difficult for workers to meet all of the technical requirements for a legal strike. What constitutes a strike under the labor law is limited to strikes regarding wages and working conditions, social benefits, and the trade union rights and freedoms of workers. The law prohibits collective bargaining for key civil servants, appointed or elected employees of state and municipal bodies, court judges, and prosecutors.

The penalties for obstructing trade union activity range from fines to community service. The government did not effectively enforce applicable laws. Resources, inspections, and remediation efforts were not adequate, and the small fines imposed as punishment were an ineffective deterrent to employers. Administrative and judicial procedures were subject to lengthy delays and appeals. Unions alleged that the government did not consistently enforce laws prohibiting retribution against strikers. On April 10, the international company Orpea disciplinarily fired Anna Bacia, a physical therapist with 16 years of experience, who was a chairperson of the trade union representing company workers. According to All Poland's Trade Union, the dismissal, which happened shortly after she revealed her trade union activity, was illegal because she was protected under the law on such activity and the trade union did not approve her dismissal.

Trade union representatives stated that violations of freedom of association and the right to collective bargaining occurred. While many workers exercised the right to organize and join unions, many small and medium sized firms, which employed a majority of the workforce, discriminated against those who attempted to organize. The government enforced applicable laws, but penalties were insufficient to deter violations.

Labor leaders continued to report that employers regularly discriminated against workers who attempted to organize or join unions, particularly in the private sector. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing of the workplace. Some employers sanctioned employees who tried to organize unions.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. Nevertheless, forced labor occurred.

The government effectively enforced the law. Penalties for forced labor violations were sufficiently stringent to deter violations. In 2018, the most recent year for which statistics were available, the government assisted in removing 109 victims from forced labor.

There were reports that foreign and Polish men and women were subjected to forced labor in construction, agriculture, and restaurants, and children were subjected to forced begging (see section 7.c., Child Labor).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children younger than 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. The labor inspector issues a permit on the basis of psychological and medical examinations. Child labor is not allowed if the work may pose any threat to life, health, or physical and mental development of the child, or may conflict with the child's education. The government effectively enforced applicable laws, but penalties were not sufficient to deter violations.

Some children younger than 18 engaged in hazardous work in agriculture, primarily on family farms. Migrant Romani children from Romania were subjected to forced begging. Commercial sexual exploitation of children also occurred (see section 6, Children).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment or occupation in any way, directly or indirectly, on all grounds, in particular on the grounds of race, sex, color, religion, political opinion, national origin, ethnic origin, disability, sexual orientation, age, or trade union membership, and regardless of whether the person is hired for definite or indefinite contracts, or for full- or half-time work. The law does not specifically prohibit such discrimination based on language, HIV-positive status, gender identity, or social status. According to the Polish Society for Antidiscrimination Law, by law the accused must prove that discrimination did not take place. In the case of labor contracts that are protected by the labor code, antidiscrimination measures are adequate, and judges know how to apply them. These protections do not cover civil contracts, which fall under civil law, and according to the Society, it is difficult to prove discrimination through the civil procedure. The government enforced applicable laws, but penalties were not sufficient to deter violations.

Discrimination in employment and occupation occurred with respect to gender, age, minority status, disability, political opinion, sexual orientation and gender identity, and trade union membership. Discrimination against Romani workers also occurred (see section 6).

#### **e. Acceptable Conditions of Work**

The national monthly minimum wage and the minimum wage for formal work agreements meet the social minimum monthly income level. There is no minimum wage for informal work agreements. The government effectively enforced wage laws, but penalties were not sufficient to deter violations; there were reports of employers withholding wages or underpaying laborers under informal work agreements, particularly Ukrainian migrant workers in the construction and agriculture industries.

The constitution provides every employee the right to statutorily specified days free from work as well as annual paid holidays.

The law defines strict and extensive minimum conditions to protect worker health and safety and empowers the National Labor Inspectorate (NLI) to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. Workers could remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities

effectively protected employees in this situation. While the NLI's powers are limited to the formal economy, one of its responsibilities is to inspect the legality of employment, which can contribute to limiting work in the informal economy and ensuring employees who are hired in the informal economy are provided with appropriate occupational health and safety conditions.

Resources were inadequate to enforce effectively minimum wage, hours of work, and occupational health and safety in the formal or informal sectors. The number of labor inspectors was not sufficient to deter violations.

According to the inspectorate's 2018 report, the most frequent labor rights violations concerned failure to pay or delayed payment of wages, failure to pay for overtime work, and failure to sign a labor contract in situations when the job performed constituted regular labor. Most wage payment violations occurred in the services, construction, and processing industries. Seasonal workers were particularly vulnerable to such violations. The national inspectorate's report did not cover domestic workers because inspectors could only conduct inspections in businesses, not private homes. The second most common problem was inaccurate timekeeping records for hours worked.

Employers often ignored requirements regarding overtime pay. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage. The large size of the informal economy--particularly in the construction and transportation industries--and the low number of government labor inspectors made enforcement of the minimum wage difficult. The Main Statistical Office definition of informal economy includes unregistered employment performed without a formal contract or agreement and is not counted as a contribution to social security and from which income taxes are not deducted. According to the Central Statistical Office, in 2017 (the latest year for which data were available), 5.4 percent of workforce (880,000 persons) worked in the informal economy.

Penalties were not sufficient to deter violations.

The NLI continued a public awareness campaign to lower the number of work-related accidents in logging and timber companies and conducted a "Work Legally" public awareness campaign promoting legal employment. In addition, the NLI continued a prevention and information campaign "Construction Site. No More Accidents!" that targeted construction companies and included training on work safety standards for employees and employers. The NLI implemented its

“Respect Life--Safe Work on Private Farms” campaign and visited many private farms to assess safety conditions and organized a number of competitions for individual farmers.

Employers routinely exceeded standards limiting exposure to chemicals, dust, and noise. According to the inspectorate’s 2018 report, inadequate training of employees, the poor quality of job-related risk assessment tools, and inadequate measures by employers to prevent accidents were the leading causes of workplace accidents.